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TAGS: PGOV PREL KWMN PINR PHUM KU

SUBJECT: COURT WEIGHS REMOVING FEMALE MPS FOR NOT WEARING HIJAB; MPS FIGHT LAW

REF: A. 2005 KUWAIT 2064

1B. KUWAIT 504

1C. KUWAIT 244

1.(U) Summary. On October 28, Kuwait's constitutional court is expected to rule on whether recently elected female MPs Rola Dashti and Aseel Awadhi are violating the Shari'a requirement of Kuwait's electoral law by going uncovered and, as a consequence, should lose their assembly seats. The ruling comes in the wake of an October 11 move by Dashti to submit an amendment to Kuwait's electoral law scrapping the hijab (head cover) requirement. While the court is widely expected to rule that Dashti and Awadhi have not violated the law -- thus vacating the challenge to their seats -- conservative MPs are likely to vote down Dashti's attempt to remove the Shari'a requirement from the law. End summary.

The Shari'a requirement

2.(U) The requirement was introduced when parliament passed a law granting women full political rights in May 2005. The parliament included in the law a vague precondition that female voters and candidates must "abide by Shari'a" (Ref A). The precondition was proposed by Shi'a Islamist MP Hussein Al-Qallaf and embraced by the GOK as a means of mollifying Islamists.

The court case: Dashti and Awadhi on trial

3.(U) In May 2009, Kuwaiti voters elected the first four women to parliament: two women who wear the hijab and two women -- Dashti and Awadhi -- who do not (Ref B). Kuwaiti citizen Hamad Al-Nashi, who belongs to Dashti and Awadhi's third electoral district, filed a case with the constitutional court to have Dashti and Awadhi's seats revoked and given to the runner-up candidates on the basis that they had violated the Shari'a requirement. The court will issue its decision on October 28: many Kuwaitis see the case as frivolous and most expect the court to rule that the women are not in violation and do not have to surrender their seats. Former parliamentary candidate Thikra Al-Rashidi (PhD in Constitutional Law from Cairo University, previously a lawyer in the Kuwaiti Supreme Court) -- who wears the hijab -- told Poloff on October 13 that she expects the court to rule in favor of Dashti and Awadhi because the Shari'a requirement is vague and open to interpretation. Long-time liberal talk show host Yousef Al-Jassem was even more optimistic, telling Poloff on October 13 that he expects a similar ruling from the constitutional court and that such a verdict, on the heels of the poor showing of the Kuwaiti Muslim Brotherhood (ICM) in the May elections, would serve as further evidence of Islamist decline in Kuwait.

Dashti's attempt to remove the Shari'a requirement

4.(U) On October 8, in response to an inquiry from Islamist MP Mohammad Hayef, who hails from the conservative Al-Mutairi tribe, Kuwait's Ministry of Awqaf and Islamic Affairs issued a fatwa stating that Islamic law obligates Muslim women to wear the hijab head cover. Although the fatwa was general in nature and did not specifically refer to Kuwait's 2005 election law, it spurred Islamist lawmakers to call on Dashti, Awadhi, and Education Minister Moudhi Al-Hmoud to comply. On October 11, in response to these calls and her constitutional court case, Dashti submitted an amendment to Kuwait's electoral law to scrap the Shari'a requirement. Kuwait's National Assembly will debate the amendment after it reconvenes on October 27. Dashti argued that including Shari'a regulations in the electoral law is a breach of the constitution: "The regulations clearly violate articles in the constitution which call for gender equality."

5.(SBU) The question of whether female parliamentarians should be allowed to publicly show their hair brings together two of Kuwait's most divisive issues: the role of women in politics and the role of Shari'a in Kuwaiti law. On these issues, Kuwaitis tend to fall into two camps: Islamist and non-Islamist. Former Chairman of the National Union of Kuwaiti Students, 23 year-old Islamist Aws Al-Shaheen told Poloff on October 15 that he believes the National Assembly will retain the Shari'a requirement because a majority of Kuwaitis still believe the hijab is "a means of protecting women."

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Comment

6.(SBU) Because the Shari'a requirement is so vague, the constitutional court is widely expected to rule that Dashti and Awadhi are not in violation of the Shari'a requirement and do not have to surrender their seats. Notwithstanding this possibility, the Islamist camp in Kuwait retains strong support -- especially among the conservative, traditional tribes which have become increasingly influential in recent years (Ref C). This influence renders it unlikely that parliament will agree to support Dashti's amendment to scrap the reference to Shari'a altogether.

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